

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 1706 of 2021**

1. Santosh Kumr Usendi S/o Late Mr. Sukhiram Usendi Aged About 26 Years R/o 72 , Village Ichhapur Post Mardapoti, District Uttar Baster Kanker Chhattisgarh.

---- Petitioner

Versus

1. The State Of Chhattisgarh Through Its Secretary , Home Department Mahanadi Bhawan, Naya Raipur District Raipur Chhattisgarh.
2. Deputy Inspector General Of Police Chhattisgarh Suraksha Bal , South Baster Range Jagdalpur, District South Baster Chhattisgarh.
3. Commandant 16th Battalion (Bha / Ra) Chhattisgarh Suraksha Bal, Narayanpur District Narayanpur Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. Parag Kotecha, Advocate.
For State	:	Mr. Vivek Ranjan Tiwari, Addl. A.G.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****09/04/2021**

1. Aggrieved by the decision of the respondents in Annexure P/3 dated 20.01.2020, the present writ petition has been filed. The respondents vide the said order Annexure P/3 have rejected the claim of the petitioner for grant of compassionate appointment.
2. The brief facts of the case are that the deceased employee in the present writ petition namely Lt. Shri Sukhiram Usendi was working as a head constable in Police Department who died in harness on 26.05.2017. The deceased employee is said to have married Revti Bai and had three children from the said marriage namely, Santuram Usendi, Santosh Kumar Usendi & Santoshi i.e. two sons and one daughter and all the aforementioned four persons

were surely dependent upon the income from deceased employee.

It is said that the said deceased person in between also kept one bhago Bai as his second wife and had four children from the said marriage namely, Prahalad Usendi, Mohan Usendi, Johan Usendi & Bholaram Usendi.

3. Subsequent to the death of the deceased employee, the first wife namely, Revti Bai moved an application before the respondent for grant of compassionate appointment to her second son namely Santosh Kumar Usendi the present petitioner and it was specifically disclosed before the respondents that neither the elder brother of the petitioner or his sister were in government employment and therefore in order to sustain themselves, they had moved an application for compassionate appointment. The application however seems to have been rejected only on the ground that the couple of the children born from the second wife is said to be in Government employment and the impugned order of rejection of application has been made only on that ground and also on the ground that the name of the petitioner is not reflected in the service records of the deceased employee.
4. Subject to the petitioner being able to produce sufficient documents and proof to show that he is in-fact the son of the deceased employee namely Lt. Shri Sukhram there does not seem to be any good reason why the claim of the petitioner for compassionate appointment can be rejected irrespective whether the name of the petitioner is reflected in the service records or not. What is relevant to be considered, is whether he is the son of the deceased or not

and if there is sufficient proof and evidences in this regard, the claim can not be rejected only on the ground that the name is not reflected in the service records.

5. Likewise, other ground on which the application has been rejected that of the children born from the second wife being in government employment also is not one which seems to be justified grounds on the part of the respondents. So far as the petitioner is concerned. He along with two of his siblings and the widow of the deceased were totally dependent upon the earning of deceased employee. The petitioner and aforementioned dependence can not ever be accepted to be maintained and taken care of by the children born from the second wife. The authorities ought to have considered the aspect of dependency before rejecting the application for compassionate appointment.
6. Merely because somebody in the family is in government employment cannot be a ground for rejecting an application for compassionate appointment on hypo technical ground. The intention and objections of the respondents in rejection of an application in case if the other family members are found to be in government employment is ensuring the authorities to verify as to whether there is sufficient source of income available in the family or not to sustain. The alleged second wife and the children born from the second wife obviously will be a separate entity altogether they can never be considered to be person who would be responsible for taking care of the first wife and the children born from the first wife. Such a conclusion drawn by the respondents is

definitely arbitrary and high-handedness. There ought to had been a proper enquiry in-respect-of the dependency of the petitioner and other family members i.e. the first wife and the children born from the first wife on the income of the deceased and only then an appropriate decision ought to had been taken.

7. The impugned order Annexure P/3 dated 20.01.2020 in this regard therefore could not be sustainable, the same stands rejected and the matter stands remitted back to the respondent No. 3 for a fresh consideration of the claim application after due verification and enquiry of the dependency aspect and an appropriate decision be taken at the earliest preferably within a period of 90 days from the date of receipt of copy of this order.

8. The writ petition accordingly stands allowed and disposed of.

Sd/-
(P. Sam Koshy)
Judge

Jyotijha